IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

WP(C).No. 29549 of 2007(P)

PETITIONERS:

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1. A.ASHIR, ANODE HOUSE, PULLICHIRA P.O
   KOLLAM DISTRICT.

2. M.RAJENDRA PRASAD, KUREEPUZHA HOUSE,
   PULLICHIRA P.O., KOLLAM DISTRICT.

BY ADV. SRI.P.V.BABY
SRI.R.KIRAN

RESPONDENTS:

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1. THE ADMINISTRATOR OF NADUVILAKKARA
   KSHEEROLPADAKA CO-OPERATIVE SOCIETY
   LTD.NO.Q166(D) APCOS, UMAYANALLOOR P.O.,
   KOLLAM - DIARY FARM INSTRUCTOR 'A' UNIT, OFFICE
   OF THE DIARY EXTENSION OFFICER, MUKHATHALA P.O.
   KOLLAM.

2. THE RETURNING OFFICER
   (DIARY EXTENSION OFFICER),
   OFFICE OF THE DIARY EXTENSION OFFICER,
   MUKHATHALA P.O., KOLLAM.

3. THE DEPUTY DIRECTOR,
   DIARY DEVELOPMENT DEPARTMENT,
   OFFICE OF THE DIARY DEVELOPMENT,
   KOLLAM.

BY GOVT. PLEADER SRI. P.K. RAVIKRISHNAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC. 29549/2007.

APPENDIX

PETITIONERS' EXTS:

EXT. P1 : TRUE PHOTO COPY OF THE ELECITION NOTIFICATION DATED 13.8.2007 ISSUED BY THE 2ND RESPONDENT.

EXT. P2 : TRUE PHOTO COPYOF THE VOTERS LIST PUBLISHED BY THE 2ND RESPONDENT.

EXT. P3 : TRUE PHOTO COPY OF THE CANDIDATES LIST DATED 24.9.2007 PUBLISHED BY THE 2ND RESPONDENT.

EXT. P4 : TRUE PHOTO COPYOF THE NEWS ITEM PUBLISHED IN THE MATHRUBHUMI DAILY DATED 30.9.2007.

EXT. P5 : TRUE PHOTO COPY OF THE NEWS ITEM PUBLISHED IN THE MADHYAMAM DAILY DATED 30.9.2007.

EXT. P6 : TRUE PHOTOCOPY OF ORDER DATED 1.10.2007 ISSUED BY THE 3RD RESPONDENT.

K.M.JOSEPH, J.

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WP.(C) No.29549 of 2007

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Dated this the 17th day of October, 2007

JUDGMENT

Petitioners are members of the Society. First petitioner is the previous President and second petitioner was a Director in the previous Board. The period of the previous Managing Committee expired on 2.10.2007. Election was notified to be held on 29.9.2007. Case of the petitioners is as follows:

After the polling and at the time of sorting the ballot papers, a group of political persons having allegiance to CPI(M) forcibly entered into the polling station and after manhandling the personnel they destroyed the ballots. The police could not take any effective action even though two Police Constables were present in the polling station, it is contended. Ext.P2 is the final voters list and Ext.P3 is the final list of candidates contesting for the election. The election is for a period of five years. By Ext.P6 the first respondent was appointed as Administrator for a period of three months with a direction to conduct election. Prayers in the writ petition are to direct the respondents to fix

a date for the polling to elect the managing committee of the Society by using Ext.P2 voters list and Ext.P3 list of candidates and to declare that this is a fit case coming under Rule 35(3)(p) of the Kerala Co-operative Societies Rules.

2. A statement is filed by the third respondent, wherein it is inter alia stated that on the date of the election a telephone message was received from the Returning Officer stating that a riot had occurred in the counting station and a group of people entered into the counting station and spoiled the ballot paper after snatching from the Returning Officer and the election process was disturbed. Two Police Constables present in the polling station could not manage the situation. The Returning Officer has recorded this matter in the minutes book of the Society and came out of the Polling Station with the help of the Sub Inspector of Police and other police personnel who had arrived later. It is stated that the election process was stopped for the time being under Rule 35(3) of the KCS Act. Further it is stated as follows:

> "In order to avoid Administrative crisis Dairy Farm Inspector 'A' Unit of the Dairy Extension Service Unit, Mukhathala was appointed by me as Part Time

Administrator for a period of three months or the date of taking charge by the newly elected committee whichever is earlier, under Section 33 of Kerala Co-operative Societies Act. He has been also directed to take necessary steps to take action for conducting election within the stipulated time."

3. Learned Government Pleader appearing on behalf of the respondents submits that the re-poll will be conducted making use of Exts.P2 and P3.

Recording this submission, the writ petition is disposed of directing the second respondent to conduct re-poll using Exts.P2 and P3 within a period of six weeks from today.

(K.M. JOSEPH, JUDGE)

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